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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/564,044	06/29/2006	James Wilfred Forbes	200405.00020	5664
21324 7590 10/28/2009 HAHN LOESER & PARKS, LLP One GOJO Plaza Suite 300 AKRON, OH 44311-1076				
EXAMINER MC'CARRY JR, ROBERT J				
ART UNIT 3617		PAPER NUMBER		
NOTIFICATION DATE 10/28/2009		DELIVERY MODE ELECTRONIC		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

patents@hahnlaw.com  
akron-docket@hotmail.com

### Office Action Summary

**Application No.**

10/564,044

**Applicant(s)**

FORBES ET AL.

**Examiner**

ROBERT J. MCCARRY JR

**Art Unit**

3617

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --  
**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 23 September 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 71-94 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 71-89 is/are allowed.
- 6) ☒ Claim(s) 90-93 is/are rejected.
- 7) ☐ Claim(s) 94 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 90-93 are rejected under 35 U.S.C. 103(a) as being unpatentable over Day (US 4,179,995) in view of Janeway (US 2,737,907).

Day discloses a rail car truck sideframe, shown partially in figure 2. The truck 10 is comprised of a sideframe 12 and the sideframe 12 is further comprised of a window 14 for accepting a bolster 18. The window 14 is defined by a tension member defining the lower chord of the window 14 and a compression member defining the top chord of the window. Right and left vertical columns define the sides of the window. As shown in figure 2, the lower tension member arches upward to meet the upper compression member at the front and rear of the sideframe. This meeting is positioned adjacent to the end pedestal jaws of the sideframe. The sideframe also has friction members 54 positioned on the vertical columns and contact the bolster 18. The pedestal seats of the sideframe are comprised of bearing adapters 94 having a convex top surface 92 which contacts the underside concave surface of the pedestal jaw, as shown in cross section in figure 3. The bearing adapter 94 is also comprised of a pair of vertical arches on the right and left sides of the bearing adapter 94, shown in figure 3. The vertical arches contact the outer side edges of the pedestal jaw when the convex and concave surfaces

are in contact with each other. This mating of convex and concave surfaces of the bearing adapter and pedestal jaw allow for rolling contact of the sideframe relative to the bearing adapter. Based on the same cross hatching of the bearing adapter and the pedestal of figure 3, the Examiner has interpreted that the two components would both be made of the same metal material. This would cause for a metal rolling contact surface between the two components. Snubber components on the bearing adapter would reduce fore and aft yawing movement of the adapter and sideframe. This reduction in yaw and the rolling surfaces of the adapter and sideframe would cause for the truck to return to a neutral or straight position.

Day discloses the rail car truck as described above. However, Day does not specifically state that the convex and concave surfaces of the bearing adapter form a spherical shape. Janeway discloses a railway truck having a bearing adapter 46 having a "dome-like" structure that is substantially "hemi-spheroidal or hemi-ellipsoidal" as described in column 4, lines 45-55. This dome structure allows for movement along axes that are both parallel and perpendicular to the arched structure of the bearing assembly. It would have been obvious to one of ordinary skill in the art to have applied a domed bearing structure, like that of Janeway, to a rail car truck, like that of Day with the expected result of increasing mobility of the truck and therefore improving the ride of the truck and the railcar.

***Allowable Subject Matter***

Claims 71-89 are allowed.

Claim 94 is objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

***Response to Arguments***

Applicant's arguments with respect to claims 71-94 have been considered but are moot in view of the new ground(s) of rejection.

***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to ROBERT J. MCCARRY JR whose telephone number is (571)272-6683. The examiner can normally be reached on Monday through Friday 7:00am to 3:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joseph Morano can be reached on (571) 272-6684. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/S. Joseph Morano/  
Supervisory Patent Examiner, Art Unit 3617

/R. J. McCarry Jr./  
Examiner, Art Unit 3617

RJM  
October 22, 2009